



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,868	11/20/2000	Jeffrey G. Ort	41003.P038	2260

25943 7590 02/27/2003

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITES 1600-1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

EXAMINER

LUEDKE, SCOTT L

ART UNIT

PAPER NUMBER

2697

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/718,868

Applicant(s)

ORT ET AL.

Examiner

Scott L Luedke

Art Unit

2697

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 7-9, 12, 15, 18, 21, 25, 26, 28-30, 33, 36, 39 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 10, 11, 13, 14, 16, 17, 19, 20, 22-24, 27, 31, 32, 34, 35, 37, 38, 40 and 41 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s) 2.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

Art Unit: 2697

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: Claims 2-5, 7-9, 11-12, 14-15, 17-18, 20-21, 23-30, 32-33, 35-36, 38-39, and 41-42.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claims 1, 6, 10, 13, 16, 19, 22, 31, 34, 37 and 40 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Claim Objections

2. Claim 23 is objected to because of the following informalities: separated from the Claim in which it depends (i.e., Claim 1) by other Claims in which it does not directly depend.

Appropriate correction is required.

A Claim, which depends from a dependent Claim, should not be separated by any Claim, which does not also depend from said dependent Claim. It should be kept in mind that a dependent Claim may refer to any preceding independent Claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 2697

Claims 1-3, 6, 10-11, 13-14, 22-24, 27, 31-32 and 34-35 are rejected under 35 U.S.C. 102(e) as being unpatentable by *Gough*, Venolia, et. al., U.S. Patent # 5,638,501 (hereinafter, denoted as "*Gough*").

Specifically with respect to Claim 1, *Gough* discloses in Figures 5A-C:

a method of copying and saving first pixel values (Fig. 5C, Block 127) corresponding to a first display screen area (Fig. 5B, Item 116); Inherent in this process, the CPU is gathers information from a variety of sources (i.e., a first and/or a second display screen area), copies and saves that gathered information before sending it to the proper display screen area.

blending (Fig. 5A, Block 96 and Fig. 5B, Item 114) the copied first pixel values (Fig. 5A, Block 95 and Fig. 5B, Item 116) with second pixel values to generate third pixel values (Fig. 5A, Block 98 and Fig. 5B, Item 120); At Col. 13, Lines 30-35, *Gough* discloses an overlay show cursor patch process interacting with "a blending engine process to blend a first screen image . . . with a second "overlay" image to form the blended image."

replacing the original first pixel values with the third pixel values to effectuate a display (Fig. 5B, Item 120) of a non-blocking, always visible display; After the blending is completed, the new pixel value (i.e., a third pixel value) is "loaded into VRAM to create the combined image established on [the] display screen" (Col. 12, Lines 5-8). For the blending image to be displayed on the display screen, it is inherent to the process as disclosed in *Gough* to replace the original first pixel value (saved in ROM/RAM for the first display screen) with the third pixel value (stored in VRAM) so that the blending image can be displayed on the display screen.

monitoring for display operations (Figure 6B) that impacts the first display screen area (Block 139);

upon detection (Figure 5C at Block 125) of such a display operation, replaces said third pixel value with said first pixel value using said saved first pixel values (Blocks 126-129).

Gough at Col. 16, Lines 8-15 discloses that once it is determined that a display operation has occurred, the pixel data/value corresponding to the image that has been changed are copied/replaced from VRAM (e.g., a third pixel value) to the RAM screen buffer (e.g., a first pixel value) prior to application of the blending operation.

As recited in the rest of the elements in this Claim, a “loop” is essentially created, wherein the operations of: copying, saving, blending and replacing of pixel values are reiterated upon the detection of a change made to the first display screen area; therefore, the above discussion/rationale applies to the rest of the elements as recited in this Claim as well.

Regarding Claim 2, Figure 11 in *Gough* discloses a method of marking a buffer holding said third/fifth pixel values changed (Block 212) and periodically checking to determine if said buffer has been marked changed (Block 216 and 218). In *Gough* at Col. 16, Lines 7-11 the method is described wherein it is determined whether a drawing (e.g., a change) has been made to the overlay image and at that point, further determines whether this is the first time that there has been a drawing to the overlay image. In essence, the method scans the pixels that have been previously changed (wherein a blended version has been created in a buffer) and continuously scans these pixels to determine if any new changes have occurred (i.e., has been marked changed).

Regarding Claim 3, *Gough* also discloses a method of monitoring (FIG. 11) by:

intercepting invocations of display screen memory operations (Blocks 216 and 218); and

Art Unit: 2697

determining if targeted display screen areas of the display screen memory operations being invoked intersect with said first screen display area (Block 222).

In Claim 6, *Gough* (Fig. 3A) discloses a method that further comprises a non-blocking, always visible display is a selected *one of* an on-line data monitor, a tool bar (Item 64), a logo/mark and an animated assistant. As shown in Fig. 3A of the *Gough* reference and as described in Col. 8, Lines 63-67, a gadget bar (e.g., a tool bar) is displayed and permits image operations to be conducted in translucent overlaying window with reference to objects/images in a second, underlying window. The tool bar (gadget bar) is always visible on the display via the translucent overlaying window and/or non-blocking, always visible display.

The *Gough* reference (in Figure 3A) discloses the additional feature as recited in Claim 10 of “copying and saving first pixel values corresponding to a first display screen area on which a non-block always visible *on-line data monitor* (Figure 3A, Item 66) is to be rendered” (emphasis added). The *Gough* reference discloses the application of an on-line data monitor via the use of a wand icon. At Col. 8, Lines 39-45, *Gough* describes the wand icon (e.g., an online monitor) to permits images in the overlapped region of the two windows to be seen by virtue of the translucency of the uppermost window. It is stated at Col. 8, Lines 48-52 in the *Gough* reference that by clicking on the wand icon, “the user effectively renders the top-most or overlay window.” The remaining elements (e.g., the “copying and saving first pixel values,” etc.) as recited in this Claim were previously discussed in the rejection rationales for Claim 1 and the remarks as stated therein also apply in rejecting this Claim.

Claims 11 and 12, reiterate the use of an on-line monitor in a substantially similar method as described in *Gough* and as recited in Claim 10. Therefore, the remarks to Claim 10 above also

Art Unit: 2697

apply to this Claim for its reasons for rejection since each recited and discussed under that Claim.

Claims 13 and 14 include the additional limitation of “replacing the original fourth pixel values with the fifth pixel values to sustain the non-blocking always visible characteristic of the task bar.” As discussed in Claim 6, *Gough* discloses the rendering of the “visible task bar” in Figs. 3a-3e and is described in Col. 8, Lines 63-67, regarding the use of a gadget bar (e.g., a tool bar), which displays and permits image operations to be conducted in translucent overlaying window with reference to objects/images in a second, under-laying window. The tool bar (gadget bar) is always visible on the display via the translucent overlaying window and/or non-blocking, always visible display (see remarks for Claim 6).

As for apparatus Claims 22, 23 and 24, each of these Claims recite the same elements and/or features that have been recited in Claims 1-3 and 6 and therefore are rejected for the same rationales as discussed in their remarks, respectively.

Claim 27 adds the additional feature, wherein the “non-blocking always visible display is a selected one of: (1) an on-line data monitor, (2) a tool bar, (3) a logo/mark, and (4) an animated assistant. As recited in Claim 10, *Gough* describes the wand icon (e.g., an online monitor) to permits images in the overlapped region of the two windows to be seen by virtue of the translucency of the uppermost window. This icon allows the user to monitor which window is selected for a given operation and/or switch between a given operation being conducted in a given application window.

Art Unit: 2697

Claims 31 and 32 recite the same elements and/or features that have been recited in Claims 10 and 11, respectively, and are rejected for the same rationales as stated in their remarks therein.

Claims 34 and 35 recite the same elements and/or features that have been recited in Claims 13 and 14, respectively, and are rejected for the same rationales as stated in their remarks therein.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the Claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or non-obviousness.

Claims 16-17, 19-20, 37-38 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gough* in view of *Jaaskelainen, Jr.*, U.S. Patent # 6,002,397 (hereinafter, denoted as "*Jaaskelainen*").

Art Unit: 2697

The *Gough* reference (see remarks for Claims 1-3, 6, 10 and 11), discloses most of the limitations as recited in Claims 16 and 17, but fails to fully disclose some additional features as recited in these Claims. However, these additional features *are* described in the *Jaaskelainen* reference, wherein the methods of: copying and saving first pixel values corresponding to a first display screen area on which a *non-block always visible logo/mark is to be rendered* and blending the copied first pixel values with a second pixel values corresponding to the *non-block always visible logo/mark* to generate third pixel values (emphasis added) are disclosed. More specifically, the *Jaaskelainen* reference (at Col. 14, Lines 54-66) recites the use of a watermark (e.g., logo/mark) in a non-blocking always-visible display method. More specifically, the reference discloses that a repeating watermark can be incorporated in the background of each window within such a window blending system and method, which is the same as the logo/mark as recited in Claims 16 and 17. Therefore, when considering what is taught in *Gough* in view of the teaching found in the *Jaaskelainen* reference, it becomes obvious to one skilled in the art at the time of the invention to combine them.

Not only would it have been obvious to the person of ordinary skill in the art at the time of the invention was made to combine these references, but also the motivation to combine and/or modify these references is apparent when considering the reasons to follow. The *Gough* reference discloses a method of creating a translucent image over a base image (blended version) on a display screen using the methods as recited in Claims 1, 3-6, 10 and 11. The *Jaaskelainen* reference discloses a method of displaying portions of a desired underlying window through a window that is visually on top of the underlying window, while the top window remains in view. The *Jaaskelainen* reference also discloses (2) an always-visible help tool that assists the user

Art Unit: 2697

when using the user interface system (e.g., an automated assistant) and also a watermark (e.g., logo) as discussed supra this paper. If the use of an automated assistant and/or logo or marks as recited in *Jaaskelainen* was combined with the same blending method as described in Gough, then a logo and/or an automated assistant could be employed together in an always-visible display screen. Such a combination would have been obvious when watermarks and automated assistants in a graphical user interface that allows for an always-visible display screen is the objective.

Next, the *Gough* reference (with respect to the remarks for Claims 1-3, 6, 10 and 11), discloses most of the features included in Claim 19 and 20, but lacks full disclosure of some additional features as recited in these Claims. However, these additional features *are* described in the *Jaaskelainen* reference, wherein the methods of: copying and saving first pixel values corresponding to a first display screen area on which a non-block always *visible animated assistant is to be rendered* (emphasis added); The *Jaaskelainen* reference describes a navigational aid that is presented to a user in a popup window list (Col. 14, Lines 38-41). The automated assistant (automatic help tool) is described in the reference at Col. 14, Lines 41-45 wherein the user can traverse a window (in conjunction with blended or non-blended windows/images) hierarchy, wherein the user is shown which window the pointer icon (automatic help too) was currently located. A special window or portion of the window list, as described above, can display the window.

Claims 37-38 recite the same elements and/or features that have been recited in Claims 16 and 17, respectively, and are rejected for the same rationales as stated in their remarks therein.

Art Unit: 2697

Claims 40 and 41 recite the same elements and/or features that have been recited in Claims 19 and 20, respectively, and are rejected for the same rationales as stated in their remarks therein.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Callahan, et. al., (U.S. Patent 6,396,473), which describes a method of using graphic/image buffering to overlay graphics memory management; (2) Carlsen (U.S. Patent 6,313,847), which describes a method of using a frame buffer in blending graphic/image data; (3) Christensen (U.S. Patent 6,493,002), which describes a method of interactively positioning a cursor on a data display screen and a window generator that generates and displays a window on a data display screen.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Luedke whose telephone number is 703/305-8327. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 pm

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Joseph Mancuso can be reached at 703/305-3885. The fax phone number for the organization where this application or proceeding is assigned is 703/746-9429.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-4750.

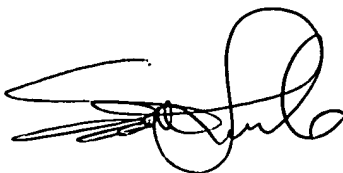
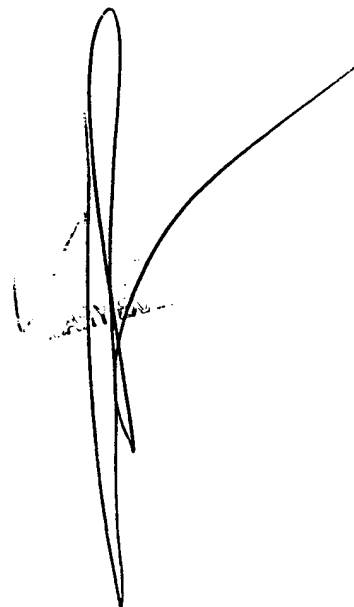
Application/Control Number: 09/718,868

Page 12

Art Unit: 2697

SLL

February 24, 2003

A handwritten signature in black ink, appearing to be 'SLL', written over the date.A large, stylized handwritten signature or mark in black ink, possibly a checkmark or a large 'V'.